

# STATE OF IDAHO



**DIVISION OF PURCHASING**

## **VENDOR'S GUIDE**

To Doing Business with the  
State of Idaho

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**JULY 2008**

***NOTE: This Vendor's Guide is for informational purposes only. It is not a legal document and does not take the place of Idaho Code or Division of Purchasing Rules. It is not intended and shall not be construed to create any legal rights or interests of whatever nature in bidders, or to impose legal duties or obligations upon the Division of Purchasing or the State of Idaho. This Vendor's Guide supersedes all previously issued publications.***

Costs associated with this publication are available from the Department of Administration, Division of Purchasing in accordance with *Section 60-202, Idaho Code*.

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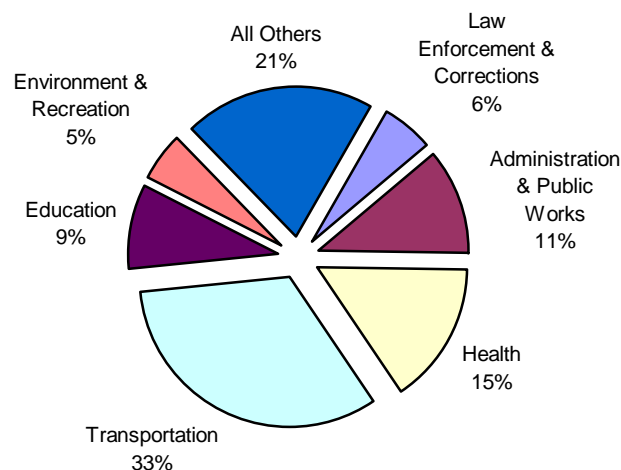
# 1. INTRODUCTION

## Purpose of This Guide

The Department of Administration, Division of Purchasing, has prepared this publication to: (1) acquaint potential suppliers with our purchasing process; (2) serve as a guide for doing business with the State of Idaho; and (3) to promote good relationships between vendors and the State. The State of Idaho is constantly looking for innovative, reliable, and competitive vendors who can demonstrate more efficient and cost effective ways of satisfying the state's requirements.

## Who Buys for the State?

State government is one of the largest consumers of goods and services in the State of Idaho. Every year the State purchases over \$800 million worth of goods, services, and capital equipment. The State is not a single entity. It is made up of many departments, divisions, bureaus, boards, commissions, districts, regional offices, and other authorities. Small purchases are made by these various groups located throughout Idaho. Larger purchases are made by the Department of Administration, Division of Purchasing on behalf of the various agencies. The Division of Purchasing is responsible for the oversight of all state purchasing activities. The following chart shows the categories that make up the largest percentages of the State's total purchases: (All percentages are approximate)



Environment and Recreation includes Fish and Game, Parks and Recreation, Lands, and Water Resources.  
Education includes Universities and Colleges, Vocational Ed., State Library, Historical Society, and Public Television.  
Transportation includes Highways, Aeronautics, and Public Transportation.  
Health includes Health and Welfare, State Hospitals, Veterans Homes, Environmental Quality, and Public Health Districts.  
Administration includes Public Works, Information Technology and Purchasing.

Vendors are encouraged to access the Idaho Purchasing web site ([www.adm.idaho.gov/purchasing](http://www.adm.idaho.gov/purchasing)) where up-to-date information about bidding opportunities, state purchasing personnel, purchasing rules and other purchasing related information is displayed.

## **History of State Purchasing**

Idaho was one of the first states in the west to establish a centralized purchasing program. It began in 1919 as the Bureau of Supplies, under the Department of Public Works, and later became a separate entity under the direction of the Governor's Office. In 1974 the Division of Purchasing, under the Department of Administration, was established. Today, the Division of Purchasing uses an automated purchasing system, utilizes the Internet to distribute purchasing information, and conducts regular training sessions for state purchasing personnel and the vendor community.

## **State Statutes & Purchasing Authority**

State purchasing activity is governed by state statute (*Idaho Code Title 67, Chapter 57*). The statutes may be viewed and printed through the Internet via the Idaho Purchasing Homepage ([www.adm.idaho.gov/purchasing](http://www.adm.idaho.gov/purchasing)). These laws:

- Place authority and responsibility for state purchases in the Department of Administration, Division of Purchasing.
- Permit the Division to delegate authority for some purchases to other state agencies.
- Establish competitive bidding as the preferred method for obtaining goods and services.

This guide addresses only the purchase of products and services relating to the Division of Purchasing activities and does not address building or construction projects under the jurisdiction of the Department of Administration, Division of Public Works or highway construction and maintenance under the jurisdiction of the Idaho Transportation Department. Construction projects are subject to the Idaho Public Works Contractor's Licensing Act (*I.C. 54-1901 through 54-1930*). Information about public works type projects may be obtained by calling the Division of Public Works at (208) 332-1900 or at their web site: <http://www.adm.idaho.gov/pubworks>. Information about transportation projects may be obtained by calling (208) 334-8429 or on their web site at: <http://www.itd.idaho.gov/business/business.htm>

## **Division of Purchasing Mission Statement**

The mission of the Division of Purchasing is to purchase goods and services by securing maximum value for the tax dollar and to provide service to state agencies and the public in a timely and courteous manner through ethical and impartial relations with vendors and state personnel.



## 2. HOW THE STATE OF IDAHO PURCHASES

### Types of Purchases - Purchasing Rules and Procedures

The Division of Purchasing has created rules (IDAPA 38.05.01) to supplement purchasing statutes and has outlined procedures to govern the purchase of property and services. These rules have been reviewed and approved by the State Legislature. The following is a summary of the types of purchases and the rules and procedures used by the state.

### Small Purchases of Property or Services

Less Than \$5,000.00 For purchases expected to cost less than \$5,000 no competitive bidding is required. However, the purchase is to be in accordance with good business practice and in the best interests of the state.

All agencies have authority to make purchases under \$5,000. Purchases are made with an agency purchase order or by use of a State of Idaho Purchasing Card.

More Than \$5,000  
Less Than \$75,000

Purchases over \$5,000 and under \$75,000 require a minimum of three (3) competitive solicitations from vendors with a significant Idaho economic presence as defined by Idaho Code. Larger agencies may have delegated authority to make purchases, up to a maximum of \$75,000, depending upon their need.

*Idaho Code 67-2349* defines significant Idaho economic presence as: the bidder must have, for a minimum of one year prior to the bid, maintained in Idaho fully staffed office, or fully staffed sales office or divisions, or fully staffed sales outlets, or manufacturing facilities, or warehouses or other necessary related property. Further, if the bidder is a corporation, it must be registered with the office of the Secretary of State and licensed to do business in the State of Idaho.

*See Page 6, Bid Posting and Notifications and Page 7, Accessing Bidding Opportunities on the Internet.*

## **Larger Purchases of Property or Services (Formal Sealed Bidding)**

More Than \$75,000 Purchases over \$75,000 require public notification of the solicitation. Solicitations may be in the form of an Internet posting, e-mail notification, or direct mailing to vendors. Hard copies are also posted at the Division of Purchasing office. These are formal, sealed bids and are conducted by the Division of Purchasing.

*See Page 6, Accessing Bid Posting and Notifications and Page 7, Accessing Bidding Opportunities on the Internet.*

## **Professional and Consultant Services**

Less Than \$75,000 Services of professionals or consultants costing less than \$75,000 and less than one (1) year in duration may be acquired by agencies without competitive bidding in accordance with good business practice and in the best interests of the state. Requirements for professional or consultant services exceeding \$75,000 or one (1) year require that formal, sealed bids be conducted by the Division of Purchasing.

Professional Services are defined as work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarians, and research. The knowledge is founded upon prolonged and specialized intellectual training that enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills.

Consultant Services are defined as work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting and planning. The consultant's services, opinions, or recommendations will be performed according to the consultant's

methods without being subject to the control of the agency except as to the result of the work.

## **Information Technology**

The Information Technology Resource Management Council (ITRMC) and its associated Project Team coordinates, manages, and facilitates implementation of the state's long range technology plan. All information technology purchases are made in accordance with ITRMC recommendations, state statutes, and Division of Purchasing Rules.

### Less Than \$5,000

#### Property

the

Information Technology (IT) property (defined as computer hardware, software, computer related office automation, automated data processing and telecommunications), not available on statewide contracts, costing less than \$5,000 may be acquired as each agency sees fit. IT property exceeding \$5,000 is subject to competitive bidding process. The State has microcomputer contracts in place to fulfill most needs.

### Less Than \$75,000

#### Services

Information Technology services less than \$75,000 acquired through a service contract not to exceed one (1) year may be acquired as each agency sees fit. Service contracts in excess of \$75,000 or more than one (1) year are subject to competitive bidding.

## **Statewide and Single Agency Contracts**

The Division of Purchasing develops statewide contracts (Blanket Purchase Orders) for commonly used items and services used by multiple agencies and specific item or service contracts for single agency use. Statewide contracts are generally bid and awarded by zones or areas (see maps, page 39). Purchases from contracts by agencies do not require any further bidding and do not have a dollar limitation unless specially mentioned in the contract. Agencies simply issue release orders against statewide contracts.

## **Emergency Purchases**

The Division of Purchasing, after determining that an emergency exists, may authorize the purchase of property or services by any reasonable means, with any available specification, without regard to the competitive bid provisions of purchasing rules.

## **Exceptions to Bidding**

Purchases from sole sources, the federal government, rehabilitation agencies, Correctional Industries, and purchases less than the bid limits described above are

exempt from informal or formal bidding procedures. The Division of Purchasing reserves the authority to determine if an item or service meets the qualifications to be exempt from bidding.

The complete *Division of Purchasing Rules* may be viewed or printed from the Idaho Purchasing Homepage web site ([www.adm.idaho.gov/purchasing](http://www.adm.idaho.gov/purchasing)).

### **3. THE VENDOR REGISTRATION AND BID NOTIFICATION SYSTEM**

#### **Bid Posting and Notification**

The Idaho Division of Purchasing posts business opportunities on the Internet utilizing a third party contractor, SicommNet. Some state agencies are also using this system and its use is expanding. Use of this Internet-based system allows vendors to respond to solicitations online or download non-interactive bids or proposals. Vendors may search for business opportunities or receive e-mail notifications of opportunities in selected commodity classifications.

#### **Vendor Internet Registration**

The State of Idaho does not require that a vendor be registered with the State in order to do business. However, since solicitations are posted on the Internet in the SicommNet system, vendors are encouraged to register and profile their company in SicommNet.

There is **no charge** to register, profile your company, search, view, and respond to Idaho solicitations. However, other states, cities, and counties are also using this system across the nation and some transaction or registration fees may apply to them. A full explanation of how the SicommNet system is funded and transaction fees is provided on their website in the SicommNet Online Service Agreement (SOSA). In Idaho, there is currently no charge to use the system or do business with the State. To register go to:

**<http://www.sicomm.net>**  
Click on **Vendor Registration**  
Follow on-line Instructions  
For Help call **800-575-9955**

#### **No Internet Access**

For those vendors without Internet access, paper copies of all formal, sealed Invitations to Bid and Requests for Proposal are always available and may be viewed at the Idaho Division of Purchasing Office, 5569 Kendall, Boise, ID 83706 during normal business hours (8-5, M-F). Smaller purchases (Request for Quotations) are generally processed by

individual state agencies and copies are not available through the Division of Purchasing office.

The Idaho Dept. of Commerce, Idaho Business Network (IBN) offers a bid-matching service for Idaho businesses. IBN will search bidding opportunities on the Internet from federal, state, and local agencies as well as from local large corporations and notify their members by e-mail or fax, of the bid. All states have similar programs. For more information contact the Idaho Business Network at 208-334-2470 or 1-800-842-5858 or see their web site at: <http://commerce.idaho.gov/business/government>

## More Information

Additional information about Idaho's use of the SicommNet system is available on the purchasing website at: <http://www.adm.idaho.gov/purchasing/epurchasinginfo.htm>

## Accessing Bidding Opportunities on the Internet

After your registration is complete you are ready to access bidding opportunities. Follow these steps to view, respond to or download bids, quotes, or proposals:

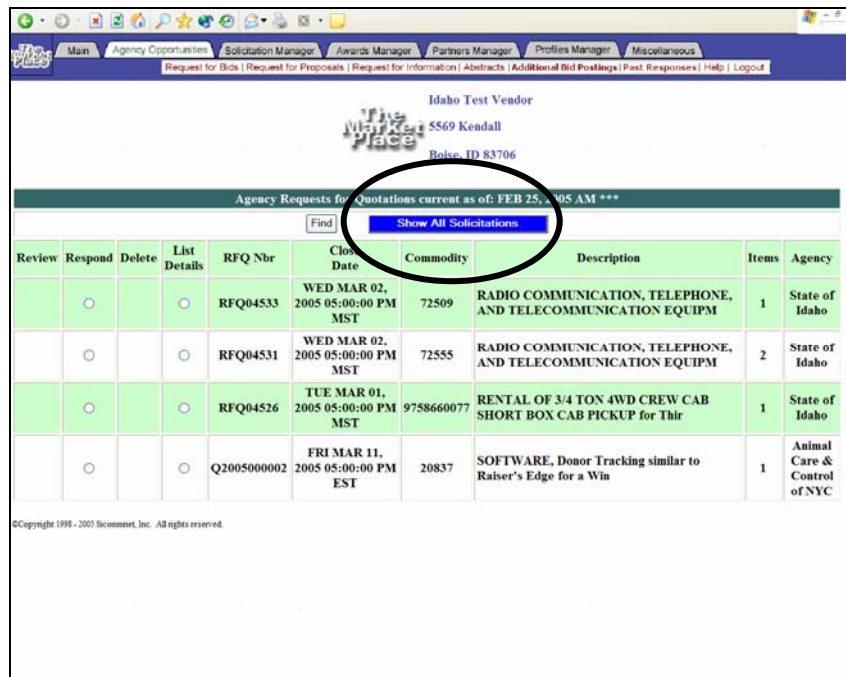
- a. Go to: <http://www.sicomm.net>
- b. Enter your User ID and Password Click on "MarketPlace Login"



- c. Click on Agency Opportunities on the Tab menu. A sub-menu will appear with the options; Request for Quotation, Request for Bid, Request for Proposal, or Request for Information. Click on one of these options.



- d. Solicitations are filtered and displayed according to your selected commodity codes. To see all solicitations available, (those that are not in your commodity code) click on the Show All Solicitations button.



- e. Solicitations can either be just viewed, or viewed and responded to. To see all the information available, click on the Respond radial button. NOTE: Some Request for Proposals cannot be responded to on-line. Click on the View button to access these.

Idaho Test Vendor  
5569 Kendall  
Boise, ID 83706

Agency Requests for Quotations current as of: FEB 25, 2005 AM \*\*\*

Find [Show All Solicitations](#)

Review	Respond	Delete	List Details	RFQ Nbr	Close Date	Commodity	Description	Items	Agency
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	RFQ04533	WED MAR 02, 2005 05:00:00 PM MST	72509	RADIO COMMUNICATION, TELEPHONE, AND TELECOMMUNICATION EQUIPM	1	State of Idaho
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	RFQ04531	WED MAR 02, 2005 05:00:00 PM MST	72555	RADIO COMMUNICATION, TELEPHONE, AND TELECOMMUNICATION EQUIPM	2	State of Idaho
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	RFQ04526	TUE MAR 01, 2005 05:00:00 PM MST	9758660077	RENTAL OF 3/4 TON 4WD CREW CAB SHORT BOX CAB PICKUP for Thir	1	State of Idaho
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Q2005000002	FRI MAR 11, 2005 05:00:00 PM EST	20837	SOFTWARE, Donor Tracking similar to Raiser's Edge for a Win	1	Animal Care & Control of NYC

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- f. Scroll down to see information about terms and conditions, special instructions, etc. Look for any attachments that need to be opened and viewed or downloaded. Attachments can be found as linked files in the header area or near the item description. Click on the radial button or underlined file name to open the attachment.

State of Idaho A00000000011  
Idaho Division of Purchasing  
5569 Kendall  
PO Box 83720  
Boise ID, 83720-0075

**Invitation to Bid**

Fri Feb 25, 10:29:21 AM, MST 2005  
HH:MM:SS adjusted to system server hh:mm:ss

RFB Nbr: ITB02302      Requisition Nbr: REQ06563  
Reference Number: 2005-066      Document Nbr: PREQ9093

RFB Date of Issue: FRI FEB 11, 2005 09:41:29 AM MST      RFB CLOSING (Due) Date: THU MAR 03, 2005 05:00:00 PM MST  
IN: 6 Days 6 Hours 30 minutes 36 seconds

Required Delivery Date: 03/30/2005

Freight: Freight / Handling Included in Price      FOB:      Destination

Delivery Point: IDPR  
Name 1: Idaho Dept of Parks & Recreation      Address 1: 5657 Warm Springs Avenue  
Name 2:      Address 2:  
Name 3:      City, State & Zip: Boise, ID 83706

Contact Person: JIM RICE      Phone Nbr: 208 334 4199      Fax Nbr: 208 334 3741  
Email: [jrice@idpr.state.id.us](mailto:jrice@idpr.state.id.us)

Buyer: PEARL SMITH

Buyer: PEARL SMITH  
Phone Nbr: 208-327-7116  
Email: [pearl.smith@adm.idaho.gov](mailto:pearl.smith@adm.idaho.gov)  
Fax Nbr: 208-327-7320

**RFB FILE ATTACHMENTS**  
2 file(s) found.

- ☐ signaturepageITB\_RFP.doc
- ☐ traildozerspec.doc

**SPECIAL INSTRUCTIONS**

1: STANDARD TERMS AND CONDITIONS: The State's Conditions & Instructions to Vendors are hereby incorporated by reference into this solicitation as if set forth herein in their entirety, and are located on the Internet at [www2.state.id.us/adm/purchasing](http://www2.state.id.us/adm/purchasing). If you do not have internet access, you may contact the Div. of Purchasing at 208-327-7465 to obtain a copy. The Conditions & Instructions to Vendors shall apply to this solicitation and the State of Idaho Standard Contract Terms & Conditions shall apply to any contract resulting from this solicitation. Failure by any submitting vendor to obtain a copy of such shall in no way constitute or be deemed a waiver by the State of either document, or any part of them. No liability will be assumed by the Division of Purchasing for a submitting vendor's failure to consider the Terms & Conditions in its response to the solicitation.

2: The undersigned hereby offers to sell to the State of Idaho the specified property and/or services, if this quotation, bid, or proposal (response) is accepted within a reasonable time from the date of closing, at the price shown in our response and under all the terms and conditions contained in, or incorporated by reference into the State of Idaho's solicitation.

3: Submission of a response to the State of Idaho constitutes and shall be deemed an offer to sell to the State of Idaho the specified property and/or services at the price shown in the response and under the State's Terms and Conditions.

As the undersigned, I also certify I am authorized to sign this response for the submitting vendor and the response is made without connection with any person, firm, or corporation making a response for the same goods and/or services and is in all respects fair and without collusion or fraud.

4: Additional instructions/provisions are attached which apply to this Solicitation.

PUBLIC AGENCY CLAUSE: Contract prices shall be extended to other "Public Agencies" as defined in Section #67-2327 of the Idaho Code, which reads: "Public Agency" means any city or political subdivision of this state, including, but not limited to counties; school districts; highway districts; port authorities; instrumentalities of counties; cities or any political subdivision created under the laws of the State of Idaho. It will be the responsibility of the Public Agency to independently contract with the vendor and/or comply with any other

- To respond on-line, scroll down to the bottom where a price can be entered. There is also a comment field for you to add additional information about your response.
- Click on the Submit Response button. You will receive an on-line confirmation that your response has been received and a summary of your response. You will also get an e-mail confirmation the next day.
- You may change your response by simply entering a new one. The system will override the first response and only save the second one.

Quantity: 1 Unit of Measure: EACH Commodity Code: 070-22--

Description: OFF ROAD VEHICLE, TRAIL DOZER

**Item 001 Response**

Recycle Status:

Unit Price in US DOLLARS and CENTS: \$

Comments:

Upload / Manage already uploaded File(s): ☐ Number of Current Attachments: 0

Optionally, please supply:

Retail Price:

Manufacturer Name:

Manufacturer ID:

Manufacturer Part Nbr:

Manufacturer URL:

Item Identification ID:

**For Item 1**

You will receive an on-screen and an email confirmation of your response.  
If you do not receive these confirmations, please contact the Sicomnet Help Desk at 800.575.9955 option 2 or email to: [support@sicomnet.idaho.gov](mailto:support@sicomnet.idaho.gov)

Back  Submit Response



## **Disqualification of Vendors**

*Idaho Code 67-5730* states that vendors may be disqualified from submitting bids for periods of six (6) months to five (5) years for any of the following reasons:

- Failure to perform according to the terms of any agreement;
- Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor;
- Use of the provisions of the purchasing statutes to obstruct or unreasonably delay acquisitions by the State (obstruction is defined as a lack of success in more than fifty percent (50%) of the specification challenges made in each of three (3) different acquisitions during any twenty-four (24) month period);
- Perjury in a vendor disqualification hearing;
- To knowingly violate the provisions of the purchasing statutes; or
- Debarment, suspension or ineligibility from federal contracting of the vendor, its principals or affiliates.

Vendors who are disqualified may request of the Director of the Department of Administration a hearing before a determinations officer. In lieu of disqualification, the determinations officer may recommend specific conditions to the vendor's continued participation in acquisitions by the State.

## **4. BIDDING INFORMATION & GUIDELINES**

### **Types of Solicitations**

The State uses three (3) different types of bid solicitations:

- Request for Quotation (RFQ) - The document form, and/or other method used when purchases are solicited in accordance with small purchase procedures, or emergency purchase procedures as authorized by the Administrator of the Division of Purchasing. The request and the quotation in response may either be electronic, written, facsimile, or oral as specified by the buyer.
- Invitation to Bid (ITB) - All documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids. Invitations to Bid are publicly opened at a specified date and time.
- Request for Proposal (RFP) - All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals is generally utilized in the acquisition of services or complex purchases. Request for Proposals are publicly opened at a specified date and time.

## **How To Receive Quote/Bid/Proposal Solicitations**

Informal Requests for Quotations (RFQ) are issued by the Division of Purchasing or by state agencies with delegated authority. RFQs are sent directly to vendors supplying the commodity required either by fax, mail, personal visit, telephone call, or posted on the Internet. Vendors should contact the purchasing personnel at state agencies with delegated authority directly. The Division of Purchasing is not notified of RFQs issued by agencies within their delegated authority. A list of agency purchasing personnel is available on the Internet at the Idaho Purchasing Homepage.

Formal Invitations to Bid (ITB) and Requests for Proposals (RFP) are issued by the Division of Purchasing and a few selected state agencies. They are posted on the Internet and/or distributed to vendors who have indicated that they can provide the commodity being requested. Hard copies of formal solicitations issued by the Division of Purchasing are also posted at the Division of Purchasing office.

## **State of Idaho Standard Contract Terms and Conditions, Special Terms and Conditions for Customized Software and Related Services, and Solicitation Instructions to Vendors**

The following State of Idaho Standard Contract Terms and Conditions and Solicitation Instructions to Vendors are incorporated by reference into every solicitation. Where appropriate, Special Terms and Conditions for Customized Software and Related Services are included. Other special terms and conditions may be included in select solicitations.

The most current version is always posted on the Division of Purchasing web site and supercedes this printed copy. Check the web site for revisions at:

<http://www.adm.idaho.gov/purchasing>

Failure by any submitting vendor to obtain a copy of such from the Internet or from the Division of Purchasing shall in no way constitute or be deemed a waiver by the State of either the Solicitation Instructions to Vendors or the State of Idaho Standard Contract Terms and Conditions, or any part of them.

No liability will be assumed by the Division of Purchasing for a submitting vendor's failure to obtain the Terms and Conditions in a timely manner for use in the submitting of a vendor's response to a solicitation or any other failure by the submitting vendor to consider the Terms and Conditions in its response to the solicitation.

## SOLICITATION INSTRUCTIONS TO VENDORS

1. **AUTHORITY TO PURCHASE:** The Administrator of the Division of Purchasing, Department of Administration or the Administrator's delegates are the only statutory agents authorized to execute Agreements for the procurement of goods and services, unless exempted pursuant to statute or rule. Pursuant to *Idaho Code Section 67-5725*, all agreements made in violation of the applicable purchasing statutes or rules shall be void and any sum of money advanced by the State shall be repaid.
2. **E-PURCHASING:** The State of Idaho, Division of Purchasing and some individual agencies utilize an electronic procurement system. Vendors will be sent e-mail notifications of acquisition opportunities on those Solicitations electronically posted.
3. **ELECTRONIC SIGNATURES:** The e-Purchasing system processes all information electronically on the Internet. Signatures by both the Bidder and the State when using the e-Purchasing system may be electronic and electronic signatures used with the e-Purchasing system are as fully binding and legal for the State's purchasing process as a manually affixed signature. Any reference in these *Solicitation Instructions To Vendors* to "signed," "signature," "manually signed in ink," or equivalents will include electronic signature, if the Bidder is using the e-Purchasing system.
4. **DEFINITIONS:** Unless the context requires otherwise, all terms not defined below shall have the meanings defined in *Idaho Code Section 67-5716* or IDAPA 38.05.01.011.
  - A. Agreement – Any State written contract, lease, or Purchase Order, including Solicitation or specification documents and the accepted portions of the submission for the acquisition of property. An Agreement shall also include any amendments mutually agreed upon by both parties.
  - B. Bid – A written offer that is binding on the Bidder to supply Property in response to an Invitation to Bid.
  - C. Bidder – A Vendor who has submitted a Bid or Quotation.
  - D. Invitation To Bid – All documents, whether attached or incorporated by reference, utilized for soliciting formal sealed Bids.
  - E. Offeror – A Vendor who has submitted a Proposal.
  - F. Proposal – A written response, including pricing information, to a Request for Proposals that describes the solution or means of providing the Property requested and which Proposal is considered an offer to perform in full response to the Request For Proposals. Price may be an evaluation criterion for Proposals, but will not necessarily be the predominant basis for award.
  - G. Purchase Order – See also definition of Agreement. Typically used to acquire Property. A notification to the Bidder to provide the stated property, required

material, equipment, supplies or services under the terms and conditions set forth in the Purchase Order. It may include the form of the State's acceptance of a Bidder's Proposal or Bid.

- H. Quotation – An offer to supply Property in response to a Request for Quotation and generally used for small or emergency purchases.
- I. Request For Proposals (RFP) – Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive Proposals and is generally utilized in the acquisition of services or complex purchases.
- J. Request For Quotation – The document, form or method generally used for purchases solicited in accordance with small purchase or emergency purchase procedures.
- K. Solicitation – An Invitation to Bid, a Request for Proposals or other document issued by the purchasing activity for the purpose of soliciting Bids, Proposals or offers to perform a contract.
- L. State – The State of Idaho including each agency unless the context implies other states of the United States.
- M. Vendor – A person or entity capable of supplying Property to the State.

5. **AWARD METHOD:** Agreements may only be awarded to the "Lowest Responsible Bidder." The Lowest Responsible Bidder is defined by *Idaho Code Section 67-5716(12)* as "The responsible bidder whose bid reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price." When deemed to be in the best interest of the State, and set forth in the Solicitation documents, additional consideration may be given to the elements of discounts, supply location, quality of products or previous service, delivery time, or other elements.
6. **DETERMINATION OF RESPONSIBILITY:** The State reserves the right to make reasonable inquiry about or from the submitting Vendor or from third parties to determine the responsibility of a submitting Vendor. Such inquiry may include, but not be limited to, inquiry regarding financial statements, credit ratings, references, potential subcontractors, and past performance. The unreasonable failure of a submitting Vendor to promptly supply any requested information may result in a finding of non-responsibility.
7. **ADDENDA/AMENDMENTS:** It will be the Vendors' responsibility to check for any addenda/amendments prior to submitting a Bid, Proposal, or Quotation. In the event it becomes necessary to revise any part of the Solicitation documents, addenda/amendment will be made available. Information given to one Vendor will

be available to all other Vendors if such information is necessary for purposes of submitting a Bid or Proposal or if failure to give such information would be prejudicial to uninformed Vendors.

- 8. NOTICE OF EFFECTIVENESS:** No Agreement is effective until the authorized State purchasing official has signed (which signature may be electronic) the Agreement and the effective or award date has passed. The Vendor shall not provide any goods or render services until the Agreement has been signed by the State purchasing official and the Agreement has become effective. Furthermore, the State is in no way responsible for reimbursing the Vendor for goods provided or services rendered prior to the signature by the authorized State purchasing official and the arrival of the effective date of the Agreement.
- 9. INCURRING COSTS:** The State is not liable for any cost incurred by Vendors prior to the effective date of the Agreement.
- 10. ECONOMY OF PREPARATION:** If submitting a Proposal, please note that Proposals should be prepared simply and economically, providing a clear, complete and concise description of the Offeror's capabilities to satisfy the State's requirements.
- 11. SPECIFICATIONS:** Specifications describe the Property the State wants to acquire. If you are unsure of what the State wants, please present written questions within prescribed time periods to the designated purchasing official. See also paragraph 15 on Administrative Appeals. The State is prohibited from accepting Property that does not meet the minimum specifications pursuant to *Idaho Code Section 67-5726(4)* and *Section 67-5736*.

“No officer or employee shall conspire with a vendor or its agent, and no vendor or its agent shall conspire with an officer or employee, to influence or attempt to influence the award of a contract, or to deprive or attempt to deprive a vendor of an acquisition award. (*Idaho Code Section 67-5726 [3]*) Vendors may be disqualified for any of the following reasons: ... (b) Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor.” (*Idaho Code Section 67-5730 [2]*)
- 12. CONFLICT OF INTEREST:** No member of the legislature or officer or employee of any branch of the State government shall directly himself, or by any other person, execute, hold or enjoy, in whole or in part, any contract or agreement made or entered into by or on behalf of the State of Idaho, if made by, through or on behalf of the agency in which he is an officer or employee or if made by, through or on behalf of any other agency unless the same are made after competitive Bids. (*Idaho Code Section 67-5726[1]*). No Vendor or related party, or subsidiary, or affiliate of a Vendor may submit a Bid to obtain a contract to provide Property to the State, if the Vendor or related party, or affiliate or subsidiary was paid for services utilized in preparing the Bid specifications or if the services influenced the procurement process. (*Idaho Code Section 67-5726[6]*) To prevent the perception of a conflict of interest,

Vendors subject to *Idaho Code Section 67-5726(6)* will be prohibited from competing as a contractor or subcontractor for any project(s) that may result, directly or indirectly, from the implementation of recommendations made during a project.

**13. LAWS:** The laws governing the State's purchases of goods and services are found in the *Idaho Code Section 67-5714* through *Section 67-5744* and IDAPA 38.05.01, both available on the Internet at <http://adm.idaho.gov/purchasing/purchasingrules.html>. It is the Vendor's responsibility to conform to **ALL** applicable federal, state and local statutes or other applicable legal requirements. The information provided herein is intended to assist Vendors in meeting applicable requirements but is not exhaustive and the State will not be responsible for any failure by any Vendor to meet applicable requirements.

**14. PREFERENCE FOR IDAHO SUPPLIERS FOR PURCHASES:** Idaho preferences are governed by *Idaho Code Section 67-2349* (Reciprocal Preference) and *Idaho Code Section 60-101 – 103* (Printing).

**15. ADMINISTRATIVE APPEALS:** The laws applicable to administrative appeals are set forth at *Idaho Code Section 67-5733(1)(a)* (Specification Appeals), *Idaho Code Section 67-5733(1)(b)* (Bid Rejection Appeals), *Idaho Code Section 67-5733(1)(c)* (Bid Award Appeal), and *Idaho Code Section 67-5733(1)(d)* (Sole Source Appeal).

**16. SUBMISSION FORMS:**

A. Manual Submissions – For manually sealed and submitted Bids or Proposals, a submitting Vendor must use the State's supplied signature page (or other binding document as specified) when submitting its Bid or Proposal. The signature page must be manually signed in ink by an authorized agent of the submitting Vendor and returned with the submission package. Manually submitted Bids or Proposals submitted without the signature page shall be found nonresponsive and will not be considered. Incomplete and/or unsigned documents will be cause for non-acceptance and a finding of nonresponsiveness. The signature page must contain an **ORIGINAL HANDWRITTEN** signature executed in **INK** and be returned with the relevant Solicitation documents. **PHOTOCOPIED SIGNATURES** or **FACSIMILE SIGNATURES** are **NOT ACCEPTABLE**. Submissions must be completed either in ink or typewritten. Forms or figures written in pencil are not acceptable. Mistakes should not be erased but may be crossed out and corrections inserted next to the errors and initialed **IN INK** by the person signing. **THIS INCLUDES BUT IS NOT LIMITED TO CORRECTIONS MADE USING WHITEOUT CORRECTION FLUID AND TYPEWRITER CORRECTION TAPE.**

B. Submission Forms – Manual Quotations – For manually submitted Quotations, the Bidder may use any response and submission form authorized by the Request For Quotation, including oral, telephonic, facsimile, e-mail, or regular mail.

- C. Submission Forms – Electronic – For Vendors using the e-Purchasing system, proper completion of the electronic forms is required.
- D. Submission Forms – Manual or Electronic – Regardless of Submission Form, Vendor warrants that it accepts the State of Idaho Standard Contract Terms and Conditions and the Solicitation Instructions to Vendors. Additionally, Vendor warrants that any contract resulting from this Solicitation is subject to Executive order 2006-40([http://gov.idaho.gov/mediacenter/xeorders/eo06/eo\\_2006-40.html](http://gov.idaho.gov/mediacenter/xeorders/eo06/eo_2006-40.html)); it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for termination of its contract.

#### **17. BID AND REQUEST FOR PROPOSAL SUBMISSIONS:**

- A. Manual Submissions – The submission package or envelope must be **SEALED** and plainly marked in the **LOWER** left corner with the following: (i) the name of the item or service being sought; (ii) opening date and time; and (iii) the Solicitation number. This information is found in the Solicitation information. The submitting Vendor's return address must appear on the envelope or package. Any Bid sheets and the signature page containing an original authorized signature must be submitted in a sealed envelope or package. **(Do not respond to more than one Solicitation in the same envelope!)** A submission made using "Express/Overnight" services must be shipped in a separate sealed inner envelope/package identified as stated above, and enclosed inside the "Express/Overnight" shipping container or package. No responsibility will attach to the State, or to any official or employee thereof, for the pre-opening of, post-opening of, or the failure to open a submission not properly addressed and identified. **DO NOT FAX YOUR BID OR PROPOSAL.** Bids and Proposals must be submitted in writing. No oral, telephone, facsimile, telegraphic, or late submissions will be considered. All submissions must be received at the State's reception desk (or other designated depository) and time and date stamped prior to the closing date and time. It is the submitting Vendor's responsibility to timely submit its Bid or Proposal in a properly marked envelope, prior to the scheduled closing, for receipt in sufficient time to allow the submission to be time and date stamped.
- B. Bid Submissions – Electronic – For Bids submitted by means other than manual methods, Bidders using the e-Purchasing system must complete all steps in the submission process prior to the scheduled closing date and time.
- C. Late Submissions – It is the Vendor's responsibility to ensure that its Bid, Quotation, or Proposal is delivered or electronically submitted to the place designated for receipt on or before the specified closing time. Late submissions

will not be considered under any circumstances. Submissions may not be completed, amended or clarified on the face of the submission after the official opening time. The official time used in the receipt of manual submissions is the prevailing local time as evidenced by the automatic time/date stamp located in the State's purchasing office or other designated depository location. Electronic submissions will use the e-Purchasing system's time to determine receipt time. No responsibility will be assumed for delays in the delivery of mail by the U.S. Post Office, private couriers, the intra-State mail system, or for the failure of any computer or electronic equipment. Bidders and Offeror's should be advised the intra-State mail system may increase delivery time from Central Postal to the place designated for receipt and should plan accordingly. **LATE SUBMISSIONS WILL BE DECLARED REJECTED AND RETURNED TO THE SUBMITTING VENDOR. NO DEVIATIONS WILL BE ALLOWED.**

#### **18. TABULATION INFORMATION:**

- A. Manual/Electronic Opening – Electronic and manually distributed Solicitations will contain detailed information regarding closing/opening dates and times. Vendors may attend openings of manually submitted Solicitations at the place, date, and time specified on the Solicitation. At that time, for Bids, the names of Bidders and Bid amount will be announced. For Proposals, only the name of the Offeror's will be announced. No other information will be disclosed at that time. Persons may request tabulation information when it becomes available. Depending upon the complexity of the Solicitation, tabulations may take as long as thirty (30) days. No tabulation information will be given over the phone.*
- B. Tabulation Information – Electronic Openings – Unless otherwise noted in the Solicitation documents, electronic Solicitations will close at 5:00 p.m. By 10:30 a.m. the following business day, Vendors may, except for RFP's, view a preliminary price tabulation (abstract) on the Internet.*

**19. TERMS AND CONDITIONS OF ENSUING AGREEMENT:** Any ensuing Agreement will be governed by the *State of Idaho Standard Contract Terms and Conditions*, any applicable Special Terms and Conditions and, if applicable, any negotiated provisions, all as specified in the Solicitation documents. No additional or supplemental terms and conditions submitted by the Bidder as part of its response shall be evaluated or considered. Any and all such additional terms and conditions shall have no force and effect and shall be inapplicable to this Solicitation and any ensuing Agreement. If additional or supplemental terms and conditions, either intentionally or inadvertently appear separately in transmittal letters, specifications, literature, price lists or warranties, it is understood and agreed that the general and **ANY** special conditions in this Solicitation are the only conditions applicable to this Solicitation and any ensuing Agreement and the Bidder's authorized signature affixed to the signature page form attests to this. If you condition your Bid or Proposal on such additional terms and conditions, your Bid or Proposal will be deemed



nonresponsive. **IF YOU HAVE QUESTIONS OR CONCERNS REGARDING THE STATE'S TERMS AND CONDITIONS, ADDRESS THEM IN WRITING TO THE DESIGNATED PURCHASING OFFICIAL WITHIN THE TIME PERIOD PRESCRIBED PRIOR TO THE SOLICITATION CLOSING DATE.**

**20. PRE-OPENING SOLICITATION WITHDRAWALS OR MODIFICATION:**

- A. Manual – Manual submissions may be withdrawn or modified only as follows:  
Bids or Proposals may be withdrawn or modified prior to the closing by written communication signed in ink by the submitting Vendor. Bids or Proposals may be withdrawn prior to closing in person upon presentation of satisfactory evidence establishing the individual's authority to act on behalf of the submitting Vendor. Bids or Proposals may be withdrawn or modified by telegraphic communication provided the telegraph is received prior to the closing. The withdrawal or modification, if done via telegraph, must be confirmed in writing, signed in ink. The written confirmation must be mailed and postmarked no later than the closing date. If the written confirmation of the withdrawal or modification is not received within two (2) working days from the closing date, no consideration will be given to the telegraphic modification. Any withdrawing or modifying communication, including a telegram, must clearly identify the Solicitation. A modifying letter or telegram should be worded so as **NOT** to reveal the amount. No other form of withdrawal or modification (e.g., telephone or facsimile) will be accepted.
- B. Pre-Opening Solicitation Withdrawals – Electronic – A submitting Vendor using the e-Purchasing system may withdraw a previously submitted Solicitation response at any time prior to the closing by submitting another response with a zero unit price for each affected line item of the Solicitation and inserting the words "NO BID" in the comments field for each affected line item.
- C. Pre-Opening Solicitation Modification – Electronic – A submitting Vendor using the e-Purchasing system may modify or change a previously submitted Solicitation response at any time prior to the closing by submitting another Solicitation response which modifies the affected line items. Each additional response or submission has the effect of canceling the previous response and replacing it with the submitting Vendor's most current Solicitation response.

**21. REJECTION OF BIDS, PROPOSALS AND CANCELLATION OF BID SOLICITATION:**

- A. Prior to the issuance of an Agreement, the Administrator of the Division of Purchasing shall have the right to accept or reject all or any part of a Bid or Proposal or any and all Bids or Proposals when: (i) it is in the best interests of the State; (ii) the Bid or Proposal does not meet the minimum specifications; (iii) the Bid or Proposal is not the lowest responsible Bid or Proposal; (iv) a finding is made based upon available evidence that a Bidder or Offeror is not responsible or is otherwise incapable of meeting specifications or providing an assurance of ability to fulfill contract requirements; or (v) the item offered deviates to a major

degree from the specifications, as determined by the Administrator (minor deviations, as determined by the Administrator, may be accepted as substantially meeting the Solicitation requirements of the State). Deviations will be considered major when such deviations appear to frustrate the competitive Solicitation process or provide a Bidder or Offeror an unfair advantage.

- B. Prior to the issuance of an Agreement, the Administrator of the Division of Purchasing shall have the right to reject all Bids, Proposals, or Quotations or to cancel a Solicitation or Request for Quotations. Cancellation may be for reasons that include, but are not limited to: (i) inadequate or ambiguous specifications; (ii) specifications have been revised; (iii) Property is no longer required; (iv) there is a change in requirements; (v) all submissions are deemed unreasonable or sufficient funds are not available; (vi) Bids, Proposals or Quotations were not independently arrived at or were submitted in bad faith; (vii) it is determined that all requirements of the Solicitation process were not met; (viii) insufficient competition; or (ix) it is in the best interests of the State.

**22. SPECIAL BRANDS:** Special brands, when named, are only to indicate the standard of quality desired. Submitting Vendors may offer their equal, except when specifications require no substitution. Offerings on other brands, if their equal, may be considered, but brands or descriptions of the equal must be plainly stated. "Equal" means any other brand that is equal in use, quality, economy, and performance to the brand listed. If the submitting Vendor lists a trade name and/or catalog number, the State will assume the item meets the specifications, unless the submission clearly states it is an alternate, and describes specifically how it differs from the item specified. **MULTIPLE OR ALTERNATE BIDS WILL NOT BE ACCEPTED UNLESS SO STATED IN THE SPECIFICATIONS.**

**23. BURDEN OF PROOF:** It shall be the responsibility and burden of the submitting Vendor to furnish, with its original submission, unless otherwise provided in the Solicitation document, sufficient data for the State to determine if the goods or services offered conform to the specifications.

**24. DISCOUNTS:** Discounts, when applicable, shall be shown in a single net percentage figure (e.g., 57-1/4% instead of 50, 10, and 5 percent). **DISCOUNTS FOR PROMPT PAYMENT WILL BE ACCEPTED BUT CANNOT BE USED TO DETERMINE THE LOWEST BID.**

**25. UNIT PRICES GOVERN:** Unit prices shall govern, but please extend the amount column, to avoid mistakes. **IMPORTANT:** Prices must be given in the "unit of quantity" asked for. Example: If the documents ask for an item by the "piece," bid by the "piece." If the documents ask for an item by the "foot," bid by the "foot."

**26. FIRM PRICES:** The Bidder or Offeror agrees that its Bid, Quotation or Proposal shall be good and may not be withdrawn for a period of sixty (60) days after the scheduled closing date. No Bid, Quotation or Proposal will be accepted if marked "price prevailing at time of delivery," "estimated prices," "actual costs to be billed,"

or similar phrases. After the date and time of closing, no price increase will be allowed, unless otherwise stipulated by the State's Solicitation documents. All Bids, Quotations and Proposals must be in U.S. Dollars.

- 27. ORAL INFORMATION:** Questions concerning a Solicitation must be directed in writing to the designated purchasing official in the period of time prescribed in the Solicitation document. Bids, Proposals, or Quotations deviating from the specifications by any means other than an authorized written addendum will be subject to rejection. The State will not be responsible for any verbal or oral information given to Vendors by anyone other than an authorized purchasing official. Reliance on any oral representation is at the Vendor's sole risk. Unless otherwise provided in the Solicitation documents, questions will not be considered if received less than five (5) working days before the closing.
- 28. PAYMENT:** Unless otherwise specified in the Solicitation documents, payment will be made after acceptance of the conforming Property and after receipt by the requisitioning agency of a proper invoice. In general, no advance or progress payments will be made.
- 29. PACKAGING:** Submitting Vendors are to list their standard packaging for the items listed if other than specified.
- 30. GOVERNMENTAL USE ONLY:** Unless otherwise noted in the Solicitation documents, all purchases made pursuant to the Solicitation documents are for the internal use of government only and will not be resold to the general public at retail. Upon request, the State will issue a certification that all purchases made pursuant to the Solicitation documents are intended for the internal use of government and will not be resold to the general public at retail.
- 31. PUBLIC RECORDS:** The Idaho Public Records Law, *Idaho Code Sections 9-337 through 9-348*, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by a State or local agency regardless of the physical form or character. All, or most, of the information contained in your response to the State's Solicitation will be a public record subject to disclosure under the Public Records Law. The Public Records Law contains certain exemptions. One exemption potentially applicable to part of your response may be for trade secrets. Trade secrets include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy. If you consider any element of your Bid or Proposal to be a trade secret, or otherwise protected from disclosure, you **MUST** so indicate by marking **EACH PAGE** of the pertinent document. Include the specific basis for your position that it be treated as exempt from disclosure. Marking your entire Bid or Proposal as exempt is not

acceptable or in accordance with the Solicitation documents or the Public Records Law and **WILL NOT BE HONORED**. In addition, a legend or statement on one (1) page that all or substantially all of the response is exempt from disclosure is not acceptable or in accordance with the Public Records Law and **WILL NOT BE HONORED**. Prices quoted in your Bid or Proposal are not a trade secret. The State, to the extent allowed by law and in accordance with these Solicitation Instructions, will honor a designation of nondisclosure. You will be required to defend any claim of trade secret or other basis for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Any questions regarding the applicability of the Public Records Law should be addressed to your own legal counsel – **PRIOR TO SUBMISSION**.

**32. PRIOR ACCEPTANCE OF DEFECTIVE BIDS OR PROPOSALS:** Due to the limited resources of the State, the State generally will not completely review or analyze Bids or Proposals that appear to fail to comply with the requirements of the Solicitation documents or that clearly are not the best Bids or Proposals, nor will the State generally investigate the references or qualifications of those who submit such Bids or Proposals. Therefore, any acknowledgment that the selection is complete shall not operate as a representation by the State that an unsuccessful Bid or Proposal was responsive, complete, sufficient, or lawful in any respect.

**33. LENGTH OF CONTRACT:** Pursuant to *Idaho Code Section 67-5717(9)*, the State may enter into contracts, including leases and rentals, for periods of time exceeding one (1) year provided that such contracts contain no penalty to or restriction upon the State in the event cancellation is necessitated by a lack of financing for any such contract or contracts.

**34. LEASE-PURCHASE OPTIONS:** *Idaho Code Section 67-5721* reads, in part, as follows: "Any exercise of an option to acquire (goods, services, parts, supplies and equipment), or any other procedure which shall serve to pass title to the state where no passage of title existed before, shall be deemed to be a new acquisition and prior to execution all applicable provisions and procedures of this chapter [67-5714 through 67-5744] shall be exercised." (**NOTE:** This provision is **NOT** applicable to time purchase or installment purchase contracts).

## **STATE OF IDAHO STANDARD CONTRACT TERMS AND CONDITIONS**

**1. DEFINITIONS:** Unless the context requires otherwise, all terms not defined below shall have the meanings defined in *Idaho Code Section 67-5716* or IDAPA 38.05.01.011.

A. Agreement – Any State written contract, lease or purchase order including solicitation or specification documents and the accepted portions of the submission for the acquisition of Property. An Agreement shall also include any amendments mutually agreed upon by both parties.

- B. Contractor – A vendor who has been awarded an Agreement.
- C. Property – Goods, services, parts, supplies and equipment, both tangible and intangible, including, but not exclusively, designs, plans, programs, systems, techniques and any rights and interest in such property.
- D. State – The State of Idaho including each agency unless the context implies other states of the United States.

2. **TERMINATION:** The State may terminate the Agreement (and/or any order issued pursuant to the Agreement) when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or non-compliance within a reasonable time, not to exceed thirty (30) calendar days. If the Agreement is terminated for default or non-compliance, the Contractor will be responsible for any costs resulting from the State's placement of a new contract and any damages incurred by the State. The State, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.
3. **RENEWAL OPTIONS:** Upon mutual agreement by both parties (unless otherwise modified by a special contract term, condition, or specification), this Agreement may be extended under the same terms and conditions for one (1) year intervals or the time interval equal to the original contract period.
4. **PRICES:** Prices shall not fluctuate for the period of the Agreement and any renewal or extension, unless otherwise specified by the State in the bidding documents or other terms of the Agreement. Prices include all costs associated with shipping and delivery to the F.O.B. destination address, prepaid and allowed. If installation is requested by the State or specified in the State's solicitation documents, pricing shall include all charges associated with a complete installation at the location specified.
5. **CHANGES/MODIFICATIONS:** Changes of specifications or modification of this Agreement in any particular can be affected only upon written consent of the Division of Purchasing, but not until any proposed change or modification has been submitted in writing, signed by the party proposing the said change.
6. **CONFORMING PROPERTY:** The Property shall conform in all respects with the specifications or the State's solicitation documents. In event of nonconformity, and without limitation upon any other remedy, the State shall have no financial obligation in regard to the non-conforming goods or services.
7. **OFFICIAL, AGENT AND EMPLOYEES OF THE STATE NOT PERSONALLY LIABLE:** In no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Agreement.

**8. CONTRACT RELATIONSHIP:** It is distinctly and particularly understood and agreed between the parties hereto that the State is in no way associated or otherwise connected with the performance of any service under this Agreement on the part of the Contractor or with the employment of labor or the incurring of expenses by the Contractor. Said Contractor is an independent contractor in the performance of each and every part of this Agreement, and solely and personally liable for all labor, taxes, insurance, required bonding and other expenses, except as specifically stated herein, and for any and all damages in connection with the operation of this Agreement, whether it may be for personal injuries or damages of any other kind. The Contractor shall exonerate, defend, indemnify and hold the State harmless from and against and assume full responsibility for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security, workman's compensation and income tax laws with respect to the Contractor or Contractor's employees engaged in performance under this Agreement. The Contractor will maintain any applicable workman's compensation insurance as required by law and will provide certificate of same if requested. There will be no exceptions made to this requirement and failure to provide a certification of workman's compensation insurance may, at the State's option, result in cancellation of this Agreement or in a contract price adjustment to cover the State's cost of providing any necessary workman's compensation insurance. The contractor must provide either a certificate of workman's compensation insurance issued by a surety licensed to write workman's compensation insurance in the State of Idaho, as evidence that the contractor has in effect a current Idaho workman's compensation insurance policy, or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Industrial Commission. The State does not assume liability as an employer.

**9. ANTI-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

**CLAUSE:** Acceptance of this Agreement binds the Contractor to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964, in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for contracts involving federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et seq., the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR Part 17, and the Americans with Disabilities Action of 1990, are also incorporated into this Agreement. The Contractor shall comply with pertinent amendments to such laws made during the term of the Agreement and with all federal

and state rules and regulations implementing such laws. The Contractor must include this provision in every subcontract relating to this Agreement.

- 10. TAXES:** The State is generally exempt from payment of state sales and use taxes and from personal property tax for property purchased for its use. The State is generally exempt from payment of federal excise tax under a permanent authority from the District Director of the Internal Revenue Service (Chapter 32 Internal Revenue Code [No. 82-73-0019K]). Exemption certificates will be furnished as required upon written request by the Contractor. If the Contractor is required to pay any taxes incurred as a result of doing business with the State, it shall be solely and absolutely responsible for the payment of those taxes. If, after the effective date of this Agreement, an Idaho political subdivision assesses, or attempts to assess, personal property taxes not applicable or in existence at the time this Agreement becomes effective, the State will be responsible for such personal property taxes, after reasonable time to appeal. In no event shall the State be responsible for personal property taxes affecting items subject to this Agreement at the time it becomes effective.
- 11. SAVE HARMLESS:** Contractor shall defend, indemnify and hold harmless the State from any and all liability, claims, damages, costs, expenses, and actions, including reasonable attorney fees, caused by or that arise from the negligent or wrongful acts or omissions of the Contractor, its employees, agents, or subcontractors under this Agreement that cause death or injury or damage to property or arising out of a failure to comply with any state or federal statute, law, regulation or act. Contractor shall have no indemnification liability under this section for death, injury, or damage arising solely out of the negligence or misconduct of the State.
- 12. ORDER NUMBERS:** The Contractor shall clearly show the State's Agreement order numbers or purchase order numbers on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
- 13. CONTRACTOR RESPONSIBILITY:** The Contractor is responsible for furnishing and delivery of all Property included in this Agreement, whether or not the Contractor is the manufacturer or producer of such Property. Further, the Contractor will be the sole point of contact on contractual matters, including payment of charges resulting from the use or purchase of Property.
- 14. SUBCONTRACTING:** Unless otherwise allowed by the State in this Agreement, the Contractor shall not, without written approval from the State, enter into any subcontract relating to the performance of this Agreement or any part thereof. Approval by the State of Contractor's request to subcontract or acceptance of or payment for subcontracted work by the State shall not in any way relieve the Contractor of any responsibility under this Agreement. The Contractor shall be and remain liable for all damages to the State caused by negligent performance or non-performance of work under the Agreement by Contractor's subcontractor or its subcontractor.

- 15. COMMODITY STATUS:** It is understood and agreed that any item offered or shipped shall be new and in first class condition and that all containers shall be new and suitable for storage or shipment, unless otherwise indicated by the State in the specifications. Demonstrators, previously rented, refurbished, or reconditioned items are not considered “new” except as specifically provided in this section. “New” means items that have not been used previously and that are being actively marketed by the manufacturer or Contractor. The items may contain new or minimal amounts of recycled or recovered parts that have been reprocessed to meet the manufacturer’s new product standards. The items must have the State as their first customer and the items must not have been previously sold, installed, demonstrated, or used in any manner (such as rentals, demonstrators, trial units, etc.). The new items offered must be provided with a full, unadulterated, and undiminished new item warranty against defects in workmanship and materials. The warranty is to include replacement, repair, and any labor for the period of time required by other specifications or for the standard manufacturer or vendor warranty, whichever is longer.
- 16. SHIPPING AND DELIVERY:** All orders will be shipped directly to the ordering agency at the location specified by the State, on an F.O.B. Destination freight prepaid and allowed basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Contractor. “F.O.B. Destination”, unless otherwise specified in the Agreement or solicitation documents, shall mean delivered to the State Agency Receiving Dock or Store Door Delivery Point. The Contractor shall deliver all orders and complete installation, if required, within the time specified in the Agreement. Time for delivery commences at the time the order is received by the Contractor.
- 17. INSTALLATION AND ACCEPTANCE:** When the purchase price does not include installation, acceptance shall occur fourteen (14) calendar days after delivery, unless the State has notified the Contractor in writing that the order does not meet the State’s specification requirements or otherwise fails to pass the Contractor’s established test procedures or programs. When installation is included, acceptance shall occur fourteen (14) calendar days after completion of installation, unless the State has notified the Contractor in writing that the order does not meet the State’s specification requirements or otherwise fails to pass the Contractor’s established test procedures or programs. If an order is for support or other services, acceptance shall occur fourteen (14) calendar days after completion, unless the State has notified the Contractor in writing that the order does not meet the State’s requirements or otherwise fails to pass the Contractor’s established test procedures or programs.
- 18. RISK OF LOSS:** Risk of loss and responsibility and liability for loss or damage will remain with the Contractor until acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations. Such loss, injury or destruction shall not release the Contractor from any obligation under this Agreement.



- 19. INVOICING: ALL INVOICES** are to be sent directly to the **ORDERING AGENCY ONLY**. The Agreement number and/or purchase order number is to be shown on all invoices. In no case are invoices to be sent to the Division of Purchasing.
- 20. ASSIGNMENTS:** No Agreement or order, or any interest therein shall be transferred by the Contractor to whom such Agreement or order is given to any other party without the approval in writing of the Administrator, Division of Purchasing. Transfer of an Agreement without approval shall cause the annulment of the Agreement so transferred, at the option of the State. All rights of action, however, for any breach of such Agreement are reserved to the State. (*Idaho Code Section 67-5726[1]*).
- 21. PAYMENT PROCESSING:** *Idaho Code Section 67-5735* reads as follows:  
"Within ten (10) days after the property acquired is delivered as called for by the bid specifications, the acquiring agency shall complete all processing required of that agency to permit the contractor to be reimbursed according to the terms of the bid. Within ten (10) days of receipt of the document necessary to permit reimbursement of the contractor according to the terms of the contract, the State Controller shall cause a warrant to be issued in favor of the contractor and delivered."
- 22. COMPLIANCE WITH LAW, LICENSING AND CERTIFICATIONS:**  
Contractor shall comply with **ALL** requirements of federal, state and local laws and regulations applicable to Contractor or to the Property provided by Contractor pursuant to this Agreement. For the duration of the Agreement, the Contractor shall maintain in effect and have in its possession all licenses and certifications required by federal, state and local laws and rules.
- 23. PATENTS AND COPYRIGHT INDEMNITY:**
- A. Contractor shall indemnify and hold the State harmless and shall defend at its own expense any action brought against the State based upon a claim of infringement of a United States' patent, copyright, trade secret, or trademark for Property purchased under this Agreement. Contractor will pay all damages and costs finally awarded and attributable to such claim, but such defense and payments are conditioned on the following: (i) that Contractor shall be notified promptly in writing by the State of any notice of such claim; (ii) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and State may select at its own expense advisory counsel; and (iii) that the State shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit.

- B. Contractor shall have no liability to the State under any provision of this clause with respect to any claim of infringement that is based upon: (i) the combination or utilization of the Property with machines or devices not provided by the Contractor other than in accordance with Contractor's previously established specifications unless such combination or utilization was disclosed in the specifications; (ii) the modification of the Property unless such modification was disclosed in the specifications; or (iii) the use of the Property not in accordance with Contractor's previously established specifications unless such use was disclosed in the specifications.
- C. Should the Property become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either procure for the State the right to continue using the Property, to replace or modify the Property so that it becomes non-infringing, or to grant the State a full refund for the purchase price of the Property and accept its return.

**24. CONFIDENTIAL INFORMATION:** Pursuant to this Agreement, Contractor may collect, or the State may disclose to Contractor, financial, personnel or other information that the State regards as proprietary or confidential ("Confidential Information"). Confidential Information shall belong solely to the State. Contractor shall use such Confidential Information only in the performance of its services under this Agreement and shall not disclose Confidential Information or any advice given by it to the State to any third party, except with the State's prior written consent or under a valid order of a court or governmental agency of competent jurisdiction and then only upon timely notice to the State. The State may require that Contractor's officers, employees, agents or subcontractors agree in writing to the obligations contained in this section. Confidential Information shall be returned to the State upon termination of this Agreement. The confidentiality obligation contained in this section shall survive termination of this Agreement. Confidential Information shall not include data or information that:

- A. Is or was in the possession of Contractor before being furnished by the State, provided that such information or other data is not known by Contractor to be subject to another confidentiality agreement with or other obligation of secrecy to the State;
- B. Becomes generally available to the public other than as a result of disclosure by Contractor; or
- C. Becomes available to Contractor on a non-confidential basis from a source other than the State, provided that such source is not known by Contractor to be subject to a confidentiality agreement with or other obligation of secrecy to the State.

**25. USE OF THE STATE OF IDAHO NAME:** Contractor shall not, prior to, in the course of, or after performance under this Agreement, use the State's name in any

advertising or promotional media, including press releases, as a customer or client of Contractor without the prior written consent of the State.

**26. APPROPRIATION BY LEGISLATURE REQUIRED:** The State is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the State of Idaho beyond the term of any particular appropriation of funds by the State's Legislature as may exist from time to time. The State reserves the right to terminate this Agreement in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the State of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for the State to continue such payments, or requires any return or "give-back" of funds required for the State to continue payments, or if the Executive Branch mandates any cuts or holdbacks in spending. All affected future rights and liabilities of the parties hereto shall thereupon cease within ten (10) calendar days after notice to the Contractor. It is understood and agreed that the State's payments herein provided for shall be paid from Idaho State Legislative appropriations.

**27. FORCE MAJEURE:** Neither party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather, provided that in all cases the Contractor shall notify the State promptly in writing of any cause for delay and the State concurs that the delay was beyond the control and without the fault or negligence of the Contractor. The period for the performance shall be extended for a period equivalent to the period of the Force Majeure delay. Matters of the Contractor's finances shall not be a Force Majeure.

**28. GOVERNING LAW AND SEVERABILITY:** This Agreement shall be construed in accordance with and governed by the laws of the State of Idaho. Any action to enforce the provisions of this Agreement shall be brought in State district court in Ada County, Boise, Idaho. In the event any term of this Agreement is held to be invalid or unenforceable by a court, the remaining terms of this Agreement will remain in force.

**29. ENTIRE AGREEMENT:** This Agreement is the entire agreement between the parties with respect to the subject matter hereof. Where terms and conditions specified in the Contractor's response differ from those specifically stated in this Agreement, the terms and conditions of this Agreement shall apply. In the event of any conflict between these standard terms and conditions and any special terms and conditions applicable to this acquisition, the special terms and conditions will govern. This Agreement may not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

**30. PRIORITY OF DOCUMENTS:** This Agreement consists of and precedence is established by the order of the following documents:

1. This Agreement;
2. The RFP; and
3. Contractor's proposal as accepted by the State.

The RFP and the Contractor's proposal accepted by the State are incorporated herein by this reference. The parties intend to include all items necessary for the proper completion of the scope of work. The documents set forth above are complementary and what is required by one shall be binding as if required by all. However, in the case of any conflict or inconsistency arising under the documents, a lower numbered document shall supersede a higher numbered document to the extent necessary to resolve any such conflict or inconsistency. Provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur.

Where terms and conditions specified in the Contractor's proposal differ from the terms in this RFP, the terms and conditions of this RFP shall apply. Where terms and conditions specified in the Contractor's proposal supplement the terms and conditions in this RFP, the supplemental terms and conditions shall apply only if specifically accepted by the Division of Purchasing in writing.

**31. PUBLIC RECORDS:** Pursuant to *Idaho Code Section 9-335*, et seq., information or documents received from the Contractor may be open to public inspection and copying unless exempt from disclosure. The Contractor shall clearly designate individual documents as "exempt" on each page of such documents and shall indicate the basis for such exemption. The State will not accept the marking of an entire document as exempt. In addition, the State will not accept a legend or statement on one (1) page that all, or substantially all, of the document is exempt from disclosure. The Contractor shall indemnify and defend the State against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring such a designation or for the Contractor's failure to designate individual documents as exempt. The Contractor's failure to designate as exempt any document or portion of a document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any such release. If the State receives a request for materials claimed exempt by the Contractor, the Contractor shall provide the legal defense for such claim.

**32. NOTICES:** Any notice which may be or is required to be given pursuant to the provisions of this Agreement shall be in writing and shall be hand delivered, sent by facsimile, prepaid overnight courier or United States' mail as follows. For notice to the State, the address and facsimile number are:

State of Idaho

Division of Purchasing  
5569 Kendall Street  
P.O. Box 83720  
Boise, ID 83720-0075  
208-327-7465 (phone)  
208-327-7320 (fax)

For notice to the Contractor, the address or facsimile number shall be that contained on the Contractor's bid, quotation or proposal. Notice shall be deemed delivered immediately upon personal service or facsimile transmission (with confirmation printout), the day after deposit for overnight courier or forty-eight (48) hours after deposit in the United States' mail. Either party may change its address or facsimile number by giving written notice of the change to the other party.

**33. NON-WAIVER:** The failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

**34. ATTORNEYS' FEES:** In the event suit is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith in addition to any other available remedies.

**35. ILLEGAL ALIENS:** Contractor warrants that any contract resulting from this Solicitation is subject to Executive order 2006-40 ([http://gov.idaho.gov/mediacenter/exeorders/eo06/eo\\_2006-40.html](http://gov.idaho.gov/mediacenter/exeorders/eo06/eo_2006-40.html)) ; it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for termination of its contract.

## **STATE OF IDAHO SPECIAL TERMS AND CONDITIONS FOR CUSTOMIZED SOFTWARE AND RELATED SERVICES**

**1. DEFINITIONS:** Unless the context clearly requires otherwise, the definitions set forth in the *State of Idaho Standard Contract Terms and Conditions* shall apply to terms used in these *State of Idaho Special Terms and Conditions for Customized Software and Related Services*. In addition, the following terms shall have the following meanings when used in these *State of Idaho Special Terms and Conditions for Customized Software and Related Services*:

A. Customized Software – Software that is designed and created for the State or modified for the State and related documentation, including training manuals,

flowcharts, data dictionaries, user manuals and operation manuals. The modification of Software shall include alteration of the object code or source code of the Software.

- B. Software – A series of instructions or statements in a form acceptable to a machine that processes data and is designed to cause the machine to execute an operation or operations. Software includes operating systems, assemblers, compilers, interpreters, data management systems, utility programs, and ADPE Maintenance/Diagnostics programs.
- C. Update – An update, upgrade, enhancement, repair, patch or fix to Customized Software produced by or for the Contractor and offered for use, purchase or license to Contractor's customers.

**2. SOFTWARE LICENSE:** Contractor grants the State a perpetual, nontransferable, irrevocable and nonexclusive license to use, maintain and enhance the Customized Software.

- A. The State's license includes the right to all Updates. The payments paid by the State under the Agreement shall be the sole source of payment for Updates during the term of the Agreement. Following the termination or expiration of the Agreement, the Contractor may charge the State the lesser of the lowest fee charged to other recipients of the Update or a commercially reasonable fee for the Update. Contractor shall provide notice to the State when an Update is offered to Contractor's customers.
- B. The State is permitted to make a single archive copy of the Customized Software. The archive copy shall contain the same copyright notice and proprietary markings that are on the original Customized Software.
- C. At the option and expense of the State, Contractor shall establish a Software escrow on terms reasonably acceptable to the State.

**3. CONTRACTOR REPRESENTATIONS AND WARRANTIES:** Contractor represents and warrants that:

- A. The Contractor has the right and authority to make the modifications to Software, if any, made for the State under the Agreement.
- B. The Customized Software does not infringe upon a United States' patent, copyright, trade secret or trademark.
- C. The Contractor will provide Property under the Agreement in a timely and workmanlike manner.

- 4. ACCEPTANCE:** When the Agreement does not include installation, acceptance shall occur ninety (90) days after delivery of the Customized Software to the State. When the Agreement includes installation, acceptance shall occur ninety (90) days after the completion of installation by the Contractor. Acceptance shall not occur if the State notifies the Contractor in writing within the applicable ninety (90) day period that the Customized Software does not satisfy the terms of the Agreement or otherwise fails to pass test procedures or programs established under the Agreement.

**5. SOFTWARE WARRANTY:**

A. The Contractor warrants that:

- (i) The tapes, diskettes or other media containing the Customized Software will be free of defects in materials and workmanship under normal use for ninety (90) days from the delivery date.
- (ii) For one (1) year following acceptance, as more particularly described in section 4, the Customized Software will perform in accordance with the specifications and acceptance criteria set forth in the Agreement.
- (iii) The Customized Software is not incompatible with the Software and hardware used by the State and described in the Agreement. Incompatibility shall include the creation of errors in data, the loss of data, the inability to access data, and delays and stoppages in the performance of work by the Contractor or the State arising from the Customized Software.

B. Contractor shall repair or replace, within a commercially reasonable time and at its sole cost and expense, all Customized Software failing to comply with the warranties provided in this section 5. If the Contractor fails to repair or replace the Customized Software within a commercially reasonable time, the State may, in its sole discretion, act to repair or replace the Customized Software and the Contractor shall reimburse the State for all costs incurred by the State to repair or replace the Customized Software.

C. EXCEPT AS STATED IN THIS SECTION 5, CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- 6. LIMITATION OF LIABILITY:** CONTRACTOR SHALL NOT BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, OR

FOR LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND, WHETHER OR NOT CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATION OF LIABILITY IN THIS SECTION 6 SHALL NOT INCLUDE: CONTRACTOR'S WARRANTY OBLIGATIONS UNDER SECTION 5; DAMAGES TO REAL OR TANGIBLE PROPERTY, EXCLUDING THE STATE'S OTHER SOFTWARE, DATA, AND DATA FILES; BODILY INJURY OR DEATH TO ANY PERSON NEGLIGENTLY CAUSED BY THE CONTRACTOR; AND DIRECT DAMAGES TO THE STATE, INCLUDING COSTS PAID TO THE CONTRACTOR BY THE STATE AND THE STATE'S COSTS OF RE-PROCUREMENT OR SECURING SUBSTITUTE PERFORMANCE OF THE AGREEMENT.

- 7. OWNERSHIP OF MATERIALS AND INFORMATION:** Except as specifically provided otherwise in the Agreement, the State shall own and retain all rights to hardware and other goods purchased by the State under the Agreement and to information, materials, procedures, processes and data developed, derived, documented, stored, or furnished by the Contractor under the Agreement.

## **5. GENERAL INFORMATION**

### **Appointments with Purchasing Officers and Agency Personnel**

Purchasing Officers and agency personnel operate under substantial work loads. Making prior appointments will help us give your presentations or discussions our undivided attention.

Although every effort will be made to accommodate vendor's representatives who arrive unannounced, we cannot assure prompt attention. To avoid unnecessary delays, please make appointments in advance.

### **State Not A Reseller**

Unless otherwise noted in the bidding documents, all purchases made pursuant to solicitations are for the internal use of government only and will not be resold to the general public at retail. Upon request, the Division of Purchasing will issue a certification to this effect.

### **Contracts or Blanket Purchase Orders**

The State develops, bids, and awards written Blanket Purchase Orders in the form of term contracts, indefinite delivery/indefinite quantity contracts, leases, price agreements, maintenance agreements, or other acquisition agreements whose subject matter involves multiple payments or deliveries. A Blanket Purchase Order also includes any amendments or change orders. Blanket Purchase Orders may be issued for use by a



single agency, or by all agencies, including other public agencies (political subdivisions) of the State.

Bid solicitations normally include an estimated quantity or need, delivery information, and terms and conditions. The award of a contract does NOT authorize shipment of goods. Shipment of goods is only authorized after receipt of a completed release purchase order or other purchasing authorization issued by the individual agency.

A complete list of current statewide contracts is available for viewing on the Internet at the Idaho Purchasing Homepage.

## **Gift Policy**

It is the policy of the Division of Purchasing that no individual employee may accept any token of appreciation, no matter how insignificant. This includes lunches, dinners, or other traditional gratuities. We will appreciate you informing the employees of your company of this restriction.

## **Definition of an Idaho Vendor**

An Idaho vendor is defined as one who is “domiciled” in Idaho or is said to have a “significant Idaho economic presence.”

Domiciled means where a corporation is chartered or incorporated or where a sole proprietor or partnership is located or has its permanent headquarters. Bidders domiciled in states other than Idaho who have a "significant Idaho economic presence" for one year preceding the bid date, may be considered an Idaho domiciled bidder. Significant Idaho Economic Presence is a phrase defined in Idaho Statute 67-2349 that means a vendor is considered “domiciled” if they have maintained a staffed office, sales office, sales outlet, manufacturing facility, or warehouse for at least one (1) year and, if a corporation, be registered and licensed to do business in the state of Idaho with the office of the secretary of state.

## **Reciprocal Preference Law**

Some states and countries provide a preference for vendors within their borders and add a percentage to bids received from outside states. Where that happens, the State of Idaho responds (reciprocates) in like manner by adding the same percentage to bids received from vendors who are “domiciled” in those states or countries. This applies to the purchases of materials, supplies, equipment, services, and public works projects. *Idaho Code 67-2348 and 67-2349* applies to any department, division, bureau or agency thereof, city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body that solicits competitive bids. The law is applicable to any purchase that is bid, regardless of the dollar amount, and is not limited to the United States. It is not applicable to purchases that are not competitively bid,

such as: small purchases under \$5,000, sole source purchases, emergency purchases, and other purchases that are exempt from bidding

In determining the lowest responsible bidder, a percentage increase is added to each out-of-state bidder's bid price, which is equal to the percent of preference given to local bidders in the bidder's home state. That is, if the low bidder is from a state that grants a 10 percent preference to its own in-state bidders, the Idaho agency must add 10 percent to that bidder's price when evaluating the bid. It is only applied to bid evaluations when comparing bids from Idaho "domiciled" vendors with bids from out-of-state vendors with a preference in their state. The percentage is not applied when comparing one out-of-state bid with another out-of-state bid. In no instance is the increase (penalty percentage) actually paid to a vendor whose bid is accepted.

## **Printing Preference**

Two (2) Idaho statutes in *Idaho Code* allow for a printing preference, 60-101 and 60-103. Originally enacted in 1903 and last revised in 1980, this section of code provides for a 10% preference for printing done in Idaho (with the exception of printing of state laws). For bids or quotations for printing being produced outside of the State of Idaho, 10% additional cost is added to the bid for evaluation purposes only. It applies to all aspects of a printing project; printing, engraving, binding, and stationery work. If any portion of a printing project is performed outside of the state, then the printing preference is applied. This section of code applies to all public agencies; state, county, city, local, school districts, etc. and has no dollar limitation associated with it.

## **Small, Minority, or Disadvantaged Businesses Preferences**

There are no preferences, quotas or goals for purchasing from small, minority, or disadvantaged businesses in Idaho Code. The Division of Purchasing does not collect or track this type of information. However, several state agencies (Transportation, Environmental Quality, Water Resources, etc.) receive federal money that has, as a condition, the use of small, minority, or disadvantaged business enterprises. The Idaho Department of Transportation has a program called the Disadvantaged Business Enterprises Supportive Services Program (DBE) that certifies small businesses for work on federally funded transportation projects. For information on the DBE contact the Idaho Department of Transportation DBE coordinator at 208-334-8567.

## **Tie Bid Preferences**

In cases where a tie bid occurs, *Idaho Code 67-5718 (5)* gives preference to Idaho products and Idaho vendors. IDAPA 38-05.01 - Rules of the Division of Purchasing, Rule 82.b also allows for awarding to Idaho vendors or Idaho products in case of a tie bid.

## **Public Records Policy**

- **Open Records** All records of purchases and of the Division of Purchasing are open and accessible to the public during the regular office hours of the Division. Requests for inspection of records must be reasonable, contain sufficient information for retrieval, and must not interfere with the orderly operation of the Division. Purchase records do not include the identity of prospective bidders prior to bid opening where such disclosure might negate the competitive bid process or provide a vendor an unfair competitive advantage. Individual purchase records are not available until after award with the exception of the public opening and examination procedures.

Only the contents of Invitations to Bid are available for public examination at the public bid opening. Bidders are encouraged to attend the public bid opening on the day and the time specified for all sealed bids.

For Request for Proposals, only the names of those submitting proposals will be disclosed at the public bid opening. No public examinations of Request for Proposals are allowed until after the award. Proposal offerors are encouraged to attend the public bid opening on the day and the time specified for all sealed bids

A limited exemption for proprietary information or trade secrets exists in the Idaho Public Records Law (*I.C. 9-338*).

- **Public Records Photocopy Request Policy** It is the policy of the Division of Purchasing to respond to all public record photocopy requests within three (3) working days. There is no charge for the first fifty (50) pages copied. A charge of \$.10 per page will be charged for larger requests (over 50 pages). Current solicitations prior to bid opening and tabulations are not subject to this photocopy charge.

## **Purchases for Private Use**

Idaho law prohibits employees or officials of the State to purchase, directly or indirectly, materials, equipment or supplies for personal or individual ownership or through utilization of State Contracts or influence upon a vendor.

## **Substitutions after Contract Award**

Substitution is defined as shipment of an item that does not conform to the purchase order specifications. Substitutions require the prior written approval of the Division of Purchasing and if granted will be only for exceptional circumstances. Any supplies delivered that do not meet specifications will be returned to the vendor at the vendor's expense.

## **Listing of Job Openings**

The Division of Purchasing strongly encourages all vendors doing business with the state to join in a partnership with the State of Idaho in the hiring of qualified veterans by listing all suitable job openings with their nearest Job Service office.

## **Anti-Discrimination/Equal Employment Opportunity**

All State of Idaho contracts bind the Contractor to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964 in that "No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No other wise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance" (Section 504 of the Rehabilitation Act of 1973). Furthermore, for contracts involving Federal funds, the applicable provisions and requirements of Executive Order 11246 as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 701 of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), 29 USC Sections 621, et sequence, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, U.S. Department of Interior regulations at 43 CFR Part 17, and the Americans with Disabilities Action of 1990 are also incorporated into contracts. The Contractor must include these requirements in every subcontract relating to purchases by the State to insure that subcontractors and vendors are bound by this provision.

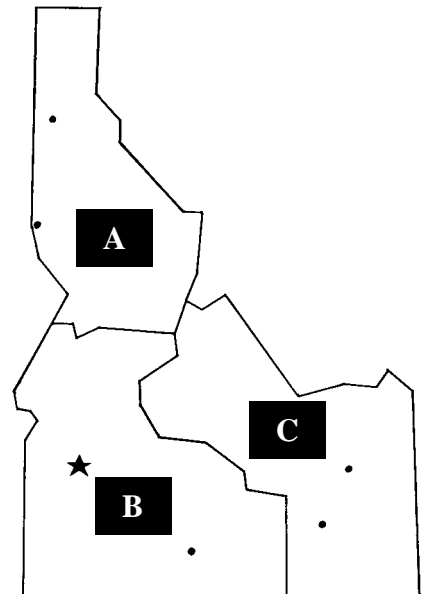
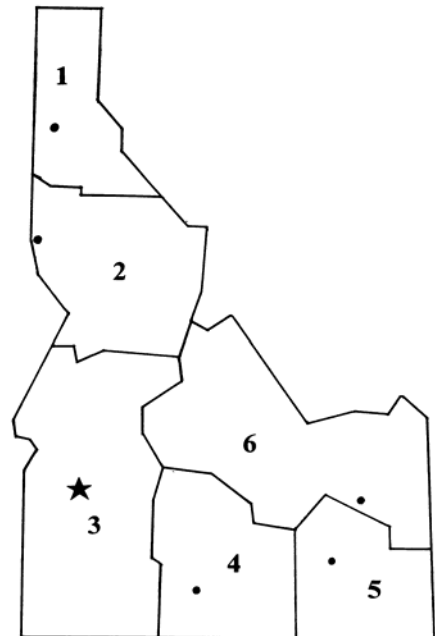
## 6. ZONE - AREA MAPS

Most statewide contracts (SBPO's) are bid and awarded by Zones (6) or Areas (3) of the state. Bidders may submit bids and be awarded any number or all zones or areas. The bidding specifications will include detailed information regarding zones, areas, and delivery requirements. Zone and Area maps are also available at the Idaho Purchasing Homepage web site.

### Zones

List of Counties per Zone:

<u>Zone 1</u>	<u>Zone 2</u>	<u>Zone 3</u>	
Benewah	Clearwater	Ada	Gem
Bonner	Idaho	Adams	Owyhee
Boundary	Latah	Boise	Payette
Kootenai	Lewis	Canyon	Valley
Shoshone	Nez Perce	Elmore	Washington
<u>Zone 4</u>	<u>Zone 5</u>	<u>Zone 6</u>	
Blaine	Bannock	Bonneville	
Camas	Bear Lake	Butte	
Cassia	Bingham	Clark	
Gooding	Caribou	Custer	
Jerome	Franklin	Fremont	
Lincoln	Oneida	Jefferson	
Minidoka	Power	Lemhi	
Twin Falls		Madison	
		Teton	



### Areas

#### Area A

Combination of Zones 1 & 2

#### Area B

Combination of Zones 3 & 4

#### Area C

Combination of Zones 5 & 6